

of the Whole for the further consideration of a bill (S. 2388) to provide an improved Economic Opportunity Act.

In the course of the bill's consideration, Mr. John M. Ashbrook, of Ohio, offered an amendment to define "administrative expenses," and to limit such expenditures. Mr. Ashbrook's amendment was discussed briefly whereupon the Chair⁽²⁰⁾ put the question on the amendment, it was taken; and on a division demanded by Mr. Ashbrook, there were—ayes 82, noes 87.

Immediately thereafter, Mr. Ashbrook demanded tellers and the following events transpired:

Tellers were ordered, and the Chairman appointed as tellers Mr. Ashbrook and Mr. Perkins.

The Committee again divided, and the tellers reported that there were—ayes 131, noes 131.

THE CHAIRMAN: The Chair votes "no."

So the amendment was rejected.

§ 22. Recapitulations and Recounts of Teller Votes

The Chair could order his count of Members seconding the demand for a teller vote to be retaken if there was confusion over the num-

ber seconding the request. A teller vote could be retaken at the Chair's discretion if there was a dispute over the number passing through the tellers.⁽¹⁾ His discretion⁽²⁾ was absolute but was exercised only in those situations where the result was in doubt. The Speaker has declined to order a recapitulation of a vote taken by electronic device.⁽³⁾

Request for Recount of Seconding Members

§ 22.1 Following a count and announcement by the Chair of the number of Members seconding a demand for tellers, a unanimous-consent request that the count be taken again was denied by the Chair.

On Apr. 4, 1940,⁽⁴⁾ the House resolved itself into the Committee of the Whole for the further consideration of a bill (H.R. 9209) making appropriations for the military establishment for the fiscal year ending June 30, 1941. In the course of the bill's consider-

1. See §§ 22.3, 22.4, *infra*.

2. See § 22.1, *infra*.

3. 121 CONG. REC. 25841, 94th Cong. 1st Sess., July 30, 1975; § 31.6, *infra*.

4. 86 CONG. REC. 4017, 4049, 4050, 76th Cong. 3d Sess.

20. John J. Rooney (N.Y.).

ation, Mr. John M. Robison, of Kentucky, offered an amendment and, after some debate, the Chairman⁽⁵⁾ put the question, as follows:

THE CHAIRMAN: The question is on the adoption of the amendment offered by the gentleman from Kentucky [Mr. Robison].

The question was taken; and on a division (demanded by Mr. May) there were—ayes 43, noes 29.

MR. [ANDREW J.] MAY [of Kentucky]: Mr. Chairman, I demand tellers.

THE CHAIRMAN: Those in favor of taking this vote by tellers will rise and stand until counted. [After counting.] Seven Members have risen, not a sufficient number, and tellers are refused.

MR. [EMMET] O'NEAL [of Kentucky]: Mr. Chairman, may I respectfully request by unanimous consent that the count be taken again? There were more than seven standing.

THE CHAIRMAN: The Chair counted those who rose after the Chair had announced that those in favor of tellers should stand, and the Chair distinctly observed only seven, and therefore, the Chair refuses again to submit the request.

Recapitulation of Teller Votes

§ 22.2 A vote by tellers was not subject to recapitulation.

On Aug. 24, 1967,⁽⁶⁾ the House resolved itself into the Committee

5. Lindsay C. Warren (N.C.).

6. 113 CONG. REC. 23908, 90th Cong. 1st Sess.

of the Whole for the further consideration of a bill (H.R. 12048) to further amend the Foreign Assistance Act of 1961, as amended, and for other purposes.

In the course of the bill's consideration, Mr. E. Ross Adair, of Indiana, offered an amendment, and, when the question was put, tellers having been ordered, there were—ayes 139, noes 138. The Chair then voted "no," and announced that the amendment was rejected. This prompted a parliamentary inquiry from the Minority Leader, as follows:

MR. GERALD R. FORD [of Michigan]: Mr. Chairman, a . . . parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. GERALD R. FORD: Mr. Chairman, it is within the Rules of the House that there should be a recapitulation of the vote?

THE CHAIRMAN: The Chair will state not on a teller vote.

Chair's Authority To Direct Recount

§ 22.3 Where representations were made prior to the announcement of the result that the tellers' count was incorrect, the Chair stated that it could direct the vote be retaken without unanimous consent providing there was doubt on the part of the tellers.

On May 25, 1953,⁽⁷⁾ the House resolved itself into the Committee of the Whole for the purpose of considering a bill (H.R. 5246) making appropriations for the Department of Labor, the Department of Health, Education, and Welfare, and related independent agencies for the fiscal year ending June 30, 1954. In the course of the bill's consideration, Mr. John E. Fogarty, of Rhode Island, offered an amendment, and, following debate, the Chairman⁽⁸⁾ put the question on that amendment. Tellers were subsequently ordered, following a division vote, and the Chairman appointed Mr. Fred E. Busbey, of Illinois, and Mr. Fogarty as tellers. The Committee then proceeded to divide.

At this point the following exchange took place:

MR. BUSBEY: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. BUSBEY: Mr. Chairman, the gentlewoman from Illinois [Mrs. Church], when she was passing through, claimed that I had dropped 10, that instead of saying 49 I said 39.

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

7. 99 CONG. REC. 5474, 5476, 5484, 83d Cong. 1st Sess.

8. Donald W. Nicholson (Mass.).

MR. HALLECK: Mr. Chairman, is there any method by which the vote can be had again when it has once been taken by tellers?

MR. [SAM] RAYBURN [of Texas]: Mr. Chairman, I would object to that. It cannot be done except by unanimous consent.

THE CHAIRMAN: If there is a doubt on the part of the tellers about the count, it can be taken again, the Chair will rule.

MR. RAYBURN: This is the first time I ever heard of that.

MR. BUSBEY: Mr. Chairman, we will pick it up on the rollcall, so let it go.

Parliamentarian's Note: A teller vote was not subject to recapitulation.⁽⁹⁾ Therefore, a "recount" of a teller vote was equivalent to a vote de novo since the recount was not limited to Members who voted the first time⁽¹⁰⁾ and did not prohibit Members from changing their votes.

§ 22.4 Where tellers have failed to agree on their count, and a recount was requested, the Chair could exercise its discretion and order that the vote be taken de novo.

On Mar. 23, 1938,⁽¹¹⁾ the House resolved itself into the Committee of the Whole for the consideration of a bill (H.R. 9415) to amend the

9. See § 22.2, *supra*.

10. See § 22.6, *infra*.

11. 83 CONG. REC. 3953, 3964, 3965, 3966, 75th Cong. 3d Sess.

Act entitled "An act to establish a Civilian Conservation Corps, and for other purposes." In the course of the bill's consideration, Mr. Gerald J. Boileau, of Wisconsin, offered an amendment. The Chairman⁽¹²⁾ put the question on the amendment, it was taken; and on a division demanded by Mr. Boileau there were—ayes 40, noes 53. At that point, the following discussion ensued:

MR. [HAMILTON] FISH [Jr., of New York]: Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chair appointed as tellers Mrs. Norton and Mr. Boileau.

The Committee again divided.

MR. BOILEAU (pending the report of the tellers): Mr. Chairman, I desire to count the gentleman from Ohio [Mr. Jenkins] and, Mr. Chairman, the gentleman from Kansas [Mr. Houston], whom the lady from New Jersey counted as going through on her side, was voting with me.

MRS. [MARY T.] NORTON [of New Jersey]: I withdrew the count of that vote.

THE CHAIRMAN: The tellers will first announce their count. How many were in the affirmative?

MR. BOILEAU: There were 53 originally and 2 others, including the gentleman from Kansas [Mr. Houston], whom the gentlewoman from New Jersey counted as going through on her side, the 2 others making a total of 55.

MRS. NORTON: May I say to the Chairman that the gentlewoman from New Jersey withdrew the count and

the gentlewoman from New Jersey counted 57 correctly.

MR. BOILEAU: I do not desire to get into a controversy with the gentlewoman from New Jersey about the matter, and I ask for a recount of the vote.

THE CHAIRMAN: May the Chair inquire how many votes the gentleman from Wisconsin claims are at issue?

MR. BOILEAU: Two votes.

Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. BOILEAU: Is it possible when tellers are counting the vote and when there is an honest difference between the two persons acting as tellers to have a recount of the vote? If so, I would ask that without any further argument.

MR. FISH: Mr. Chairman, I want to submit a parliamentary inquiry.

THE CHAIRMAN: The gentleman's request is not in order. The gentleman from Wisconsin has submitted a parliamentary inquiry and the Chair will undertake to answer it.

The Chair is informed that the Chair has the discretion, where there is a discrepancy in the vote and a recount is requested, to rule that there should be one. In this instance there is some question as to whether or not two of the Members who passed through the tellers voted in the affirmative or in the negative. If the Chair understands the situation correctly, the 57 votes reported by the gentlewoman from New Jersey includes the two votes that are claimed in the affirmative.

MRS. NORTON: No, Mr. Chairman.

THE CHAIRMAN: Does the gentleman from Wisconsin admit there were 57

12. William B. Umstead (N.C.).

votes in the negative, exclusive of the 2 referred to?

MR. BOILEAU: Mr. Chairman, I claim that there was only one vote that the gentlewoman from New Jersey counted that I should properly count on this side. However, there were several persons counted here who did not go through the tellers, and I maintain while I was attempting to talk to the Chair the gentlewoman from New Jersey kept on counting Members who indicated they wanted to go through the tellers.

THE CHAIRMAN: Does the gentleman claim, then, that if one vote that was counted by the gentlewoman from New Jersey was transferred to the yeas, as the gentleman contends should be done, that that would meet his objection?

MR. BOILEAU: No; I do not, Mr. Chairman.

THE CHAIRMAN: In that event the Chair rules there should be a recount of the vote.

MR. [JOHN J.] O'CONNOR of New York: Mr. Chairman, would the Chair desire to hear me on the point?

THE CHAIRMAN: The Chair would be pleased to hear the gentleman from New York.

MR. O'CONNOR of New York: The gentlewoman from New Jersey claims 57 votes without counting the vote of the gentleman from Kansas [Mr. Houston], which is in dispute. The gentleman from Wisconsin claims 55 votes, but if there was a mistake of that 1 vote, it would only mean a tie, and the amendment of the gentleman from Wisconsin would not pass.

THE CHAIRMAN: May I ask the gentleman from Wisconsin if the gen-

tleman from New York [Mr. O'Connor] has correctly stated his position?

MR. BOILEAU: Mr. Chairman, he has correctly stated it except in this respect: While I was attempting to address the Chair, and while there was confusion, Members were counted in the negative who did not actually go through the tellers. I have no doubt that the gentlewoman from New Jersey attempted correctly to get the views of the Committee and of Members. I believe, however, in view of the situation that developed, and in all fairness, a recount would be in order, and without making any charges of any kind I respectfully ask a recount of the teller vote.

THE CHAIRMAN: The Chair is of opinion that under the circumstances there should be a recount of the vote, and the Chair so directs.⁽¹³⁾

Where Tellers Changed

§ 22.5 Where tellers in the Committee of the Whole were unable to agree on a count, the Chair directed the vote to be taken over and made a change in the appointment of tellers.

On July 19, 1946,⁽¹⁴⁾ the Committee of the Whole having met to consider a bill (S. 1717) for the development and control of atomic energy, a teller vote was ordered

13. See Parliamentarian's Note to § 22.3, *supra*.

14. 92 CONG. REC. 9466, 79th Cong. 2d Sess.

on a committee amendment, and the Chair⁽¹⁵⁾ appointed Mr. Andrew J. May, of Kentucky, and Mr. Dewey Short, of Missouri, as tellers.

Thereafter, the following proceedings occurred:

The Committee divided; and the tellers were unable to agree on the count.

THE CHAIRMAN: . . . [T]he Chair will direct that the vote by tellers be taken over. . . .

The Chair appointed as tellers Mr. Thomason and Mr. Short.

The Committee again divided, and the tellers reported that there were—ayes 102, noes 72.

So the amendment was agreed to.

Members Eligible To Vote on Recount

§ 22.6 Where a teller vote was taken a second time because of a discrepancy in the first count, all Members were entitled to pass through the tellers and be counted, and did not need to qualify as having voted the first time.

On Mar. 23, 1938,⁽¹⁶⁾ the Committee of the Whole having under

14. 92 CONG. REC. 9466, 79th Cong. 2d Sess.

15. John J. Delaney (N.Y.).

consideration a bill (H.R. 9415) to amend the Civilian Conservation Corps Act,⁽¹⁷⁾ a difference of opinion arose between tellers with respect to the count of a teller vote on a proposed amendment to the bill.

The Chairman⁽¹⁸⁾ ordered a recount of the vote, prompting the following question from Mr. Harry L. Englebright, of California:

Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. ENGLEBRIGHT: Inasmuch as this is a recapitulation⁽¹⁹⁾ is any one entitled to vote on the recapitulation who did not vote on the previous vote?

THE CHAIRMAN: In the opinion of the Chair any Member on the floor when the vote is retaken has a right to pass through the tellers and be counted.

16. 83 CONG. REC. 3965, 3966, 75th Cong. 3d Sess.

17. See § 22.4, *supra*, for greater detail.

18. William B. Umstead (N.C.).

19. It should be noted that a teller vote may be taken *de novo* when war-